

IN THE MATTER OF : BEFORE THE
ROMAN CATHOLIC ARCHBISHOP : BOARD OF APPEALS
OF BALTIMORE : HEARING EXAMINER
Petitioner : BA Case No. 07-039C

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DECISION AND ORDER

On March 3, 2008, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the conditional use petition of the Roman Catholic Archbishop of Baltimore for structures used primarily for religious activities in an RR-DEO (Rural Residential-Density Exchange Option) Zoning District, filed pursuant to Section 131.N.39 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Matthew Regan, Tim Millen, and Mike Malepa testified in support of the petition. No one appeared in opposition to the petition.

FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, I find the following facts:

1. The subject property, is located in the 5th Election District on the south side of Old Columbia Road approximately 790 feet southeast of the Old Columbia Road intersection with

MD 216, and is also known as 8300 Old Columbia Road (the "Property"). The Property is referenced on Tax Map 46, Grid 3, as Parcel 337, Lot 1.

2. The 12.47-acre Property is an irregular, wedge-shaped parcel improved with a centrally located main building situated more than 300 feet from Old Columbia Road. The Property is accessed from a private right-of-way ("ROW") running perpendicular to Old Columbia Road and alongside the Property's west lot line. The driveway entrance to the Property from this ROW lies about 400 feet south of Old Columbia Road and leads to a large parking lot and several accessory buildings in the Property's southwest area. Much of the Property's unimproved area is open lawn. The Property moderately slopes downward to the southeast and east. In the northeast corner is a stormwater management facility.

3. Vicinal properties. All adjoining properties are also zoned RR-DEO. To the north, across Old Columbia Road, is a large State Highway administration park and ride lot and stormwater management facility. Further north, across MD 216, is the commercial section of Maple Lawn Farms Mixed Use Development. To the east lies the MD 216 interchange with US 29. Parcel 332 to the southeast is a working farm improved with a single-family detached dwelling. Parcel 337, to the southwest, is the site of a large horse stable. To the west is Parcel 387, the site of a large religious facility modified in 2004 by BOA Case No. 03-078.

4. Roads. Old Columbia Road had two travel lanes and about 31 feet of paving within an existing variable ROW. The estimated sight distance is more than 600 feet to the west and east. No traffic volume exists for this section of Old Columbia Road.

5. The Property is the subject of the approved ENRCB 13-2007, which adjusted the Planned Service Area element of the General Plan to include the Property. The Property will likely be served by private water and sewer until the facility can be connected to public facilities.

6. The General Plan designates the Property as a "Rural Residential" Area on the Policies Map 2000-2020. The General Plan's Transportation Map 2000-2020 depicts Old Columbia Road as a Minor Collector.

7. The Petitioner proposes a new phased plan for three additions to the existing facility. In the five-year Phase 1, the Petitioner would construct a two-story, 22,000 square foot Faith Formation Center to the north of the existing main buildings. The Center will be used for meetings, banquets, Sunday school, and other group activities. In Phase II, a 15-year period, the Petitioner would construct a new 28,000 square foot addition to the side of the existing religious facility. In Phase III, a 3,660 square foot balcony would be added within the Phase II addition. A new entrance would be constructed along Old Columbia Road.

8. With the completion of the Phase II construction, the main assembly area would seat 1,200 persons. To accommodate the additional seating, new parking lots would be established to the north, northeast, and east of the Phase II complex, bringing the total number of parking spaces to 406.

9. Tim Miller, the civil engineer on the project, stated the 20-year project would be phased as follows: Phase I, five years (2008-2013); Phase II, ten years (2013-2023); Phase III, five years (2023-2028).

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude as follows:

I. General Criteria for Conditional Uses (Section 131.B)

1. General Plan. The Howard County General Plan designates the area in which the Property is located as a "Rural Residential Area" land use. A religious facility is presumptively considered compatible with residential area land use. The Petitioner's proposed use, an expansion of

a long-existing religious facility and a new group activity center, complies with all setback requirements. The Property is also located along a minor collector road. Accordingly, the nature and intensity of operation, the size of the Property in relation to the use, and the location of the Property with respect to streets giving access to the Property are such that the use will be in harmony with the land uses and policies indicated in the General Plan for the district, in accordance with Section 131.B.1.a.

2. The expansion of the religious facility and the construction of a group activity center are appropriate intensifications of use and scale, given the adequacy of the existing and proposed buffers and setbacks, in accordance with Section 131.B.1.b.

3. Adverse Effect: The Petitioner has met its burden in presenting sufficient evidence to establish this proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with a religious facility in an RR-DEO zoning district. The addition to an existing religious facility and the construction of a new group activity center will not substantially differ from the existing use. The proposed expansion will be buffered by landscaping and sufficiently distant from adjacent properties, dwellings, and roadways. All parking requirements will be met and the parking areas will be landscaped to provide any additional screening the Landscape Manual may require. Any noise, odor, or light generated by the uses will be attenuated by distance and will not be greater than that ordinarily associated with a religious facility. Because the facility is a longtime use on the Property, the existing ingress and egress drive will likely provide adequate access with adequate sight distance. The use will therefore not generate excessive noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions beyond those inherently associated with a religious facility in an R-20 zoning district, as required by Section 131.B.2.

II. Specific Criteria for Structures Used Primarily for Religious Activities (Section

131.N.39)

1. According to the TSR, the actual conditional use lot coverage is about 12 percent of the 12.47-acre Property, not 14.32 as the plan notes (which appears to include the second floor area). The use will not exceed 25 percent of the lot area, in accordance with Section 131.N.39.a.

2. Section 131.N.39.b is inapplicable.

3. Section 131.N.39.c is inapplicable.

ORDER

Based upon the foregoing, it is this 17th day of March 2008, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of the Roman Catholic Archbishop of Baltimore for a conditional use to construct a group activity center and expand a religious facility in an RR-DEO (Rural Residential: Density Exchange Option) Zoning District, is hereby **GRANTED;**

Provided, however, that:

- (1). The conditional use shall be conducted in conformance with and shall apply only to the proposed group activity center and enlargements to the exiting religious facility as described in the petition and as depicted in the Conditional Use Plan on January 3, 2008, and not to any other activities, uses, or structures on the Property.
- (2). The Petitioner must obtain a building permit for the Phase I, 22,000 square foot Faith Formation Center within five (5) years of the date of this Decision and Order.
- (3). The Petitioner must obtain a building permit for the Phase II, 28,000 square foot addition to the side of the existing religious facility within fifteen (15) years of the date of this Decision and Order.
- (4). The Petitioner must obtain a building permit for the Phase III, 3,660 square foot balcony addition within the Phase II addition within twenty (20) years of the date of this Decision and Order.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER


Michele L. LeFaivre

Date Mailed: 3/19/08

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.